

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 39

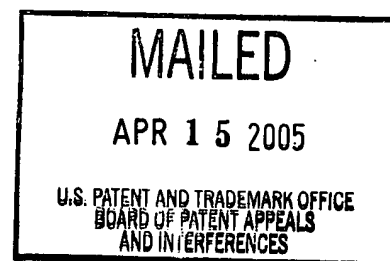
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD A. GRAFF

Appeal No. 2004-2246
Application No. 09/134,453

DECISION ON PETITIONS



On October 13, 2004, the applicant filed a Petition which will be treated under 37 CFR §1.182 (Paper No. 37). The Petition requests that this case be given priority by the Board of Patent Appeals and Interferences (Board). The basis of the request is that the applicant alleges that there was a delay in sending the application to the Board for consideration of the appeal.

With regard to making an application Special so as to give it priority for advancement of the application out of turn for examination or for further action, such is addressed under 37 CFR § 1.102, MPEP 708.01 and MPEP 708.02. The situation as described by the applicant does not meet any of the categories specified in MPEP 708.02. Consequently, the Petition to give the application priority advancement is hereby DISMISSED.

Appeal No. 2004-2246
Application No. 09/134,453

Also on October 13, 2004, the applicant filed a second Petition which will be treated under 37 CFR § 1.183 (Paper No. 38). The second Petition requests that an oral argument be permitted, or in the alternative, the Board allow the applicant to submit additional briefing. The basis for the request is that the applicant has recently become aware of case law which may be pertinent to the appeal.

In accordance with 37 CFR § 41.47 (formerly rule 37 CFR § 1.194), a request for Oral Hearing needs to be filed within two months from the date of the examiner's answer. In this instance, over two years have passed since the mailing of the examiner's answer on November 19, 2002. Consequently, the request for an Oral Hearing is untimely, and the Petition does not specify sufficient justification justifying waiver of the rule.

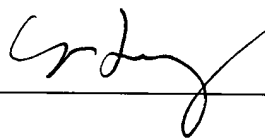
With regard to the alternative request for additional briefing, this matter is decided by the Panel upon review of the appeal. Since it does not appear that the applicant has provided a copy of the purported case law in question, no determination can be made under 37 CFR 41.50(d).

For the reasons given above, the second Petition is DISMISSED.

Applicant is welcome to submit a Citation of Court Decision containing a copy of the case law believed to be relevant for benefit of the Panel. However, the applicant may not present new arguments based upon that decision at this time.

Appeal No. 2004-2246
Application No. 09/134,453

BY ORDER OF THE BOARD OF PATENT
APPEALS AND INTERFERENCES



CRAIG R. FEINBERG
Program and Resource Administrator
571-272-9797

Peter K. Trzyna, Esq.
P.O. Box 7131
Chicago, IL 60680-7131